THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 16210 of 2005

Oral order:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

Assailing the notice dated 15.07.2005 issued by respondent No.2 calling upon him to show cause as to why he should not be removed from service, the petitioner filed this writ petition.

The petitioner earlier filed writ petition in W.P. No. 12029 of 2005 assailing the notice issued by respondent No.4 to show cause as to why he should not be removed from service. The said writ petition was allowed by this Court vide order dated 29.06.2005, holding that respondent No.4 is not competent to issue the show cause notice. Thereafter, respondent No.2 issued the impugned show cause notice. The petitioner is assailing the impugned show cause notice on two counts. Firstly he contends that respondent No.2 has no power to issue the impugned notice. He secondly contends that respondent No.2 has issued the impugned notice based on the proceedings and enquiry initiated by respondent No.4, who was declared by this Court, to have no power, to issue show cause notice to the petitioner. He thus submitted that the impugned show cause notice cannot be sustained, and prayed to quash the same.

The law is well settled that a writ petition against a show cause notice is not maintainable. In **K.M. Safiullah v. A.P. State Wakf Board**, this Court held:

> The writ Court would not ordinarily interfere at the stage of show cause notice for it favours the quasi-judicial authority vested with the power to exercise and discharge its statutory functions with a free hand, independent from outside control. When a statutory authority issues a show cause notice, the recipient of the show cause notice has ample opportunity to approach the quasi-judicial authority to place his/her case before such authority that will decide in accordance with law. If any order passed by the quasi-judicial authority goes against the person, it is always open to such person to avail the remedy of appeal and then approach this Court under Article 226 of the Constitution, if it is permissible under law. A writ petition against a show cause notice is, ordinarily, not maintainable.

In view of the above, the only option available to the petitioner is to submit his reply to the show cause notice. The petitioner may submit his reply to the show cause notice, within a period of two weeks from the date of receipt of a copy of this order, and he is at liberty to take all the objections, which he had taken in this writ petition. The authority concerned, shall consider the objections, which the petitioner may take in his reply, and pass appropriate orders thereon, within a period of six weeks from the date of submission of reply by the petitioner. In the event, the authority concerned after considering the objections of the petitioner in the reply,

passes an order, which goes adverse to the petitioner, then the petitioner is at liberty to assail the same in appropriate proceedings.

With the above directions, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 4th April, 2006.

KSR